

BEFORE THE UTILITY DIVISION
DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

In the matter of the Application)	
of THE BETA GAS COMPANY for)	DOCKET NO. 6284
Authority to Adopt New Rates)	ORDER NO. 4209
Charged for Propane Gas Service)	

FINDINGS, CONCLUSIONS AND ORDER

On December 4, 1974, THE BETA GAS COMPANY filed an application with this Commission for authority to increase rates for its propane service to consumers in and around Culbertson, Montana. A hearing on the application was set for Helena, Montana, on April 29, 1975.

The Commission having taken evidence and having received written proposed findings of fact and conclusions of law and being fully advised in the premises, makes the following findings, conclusions and order:

FACTS NOT IN DISPUTE

1. Public Notice of this hearing was given by means of legal publication in the March 31, 1975 edition of the Billings Gazette, and the April 3, 1975 edition of The Searchlight, a Culbertson weekly newspaper. In addition, copies of the notice of hearing were mailed to the following radio and television stations: KXGN-TV, KXGN Radio and KGLE Radio in Glendive; KVCK Radio in Wolf Point; KGCX Radio in Sidney; and KUMV-TV in Williston, North Dakota.

No objection was interposed in these proceedings regarding the scope or substance of notice.

2. The hearing commenced at 10:00 AM, MDT, on April 29, 1975 in a conference room of the Montana Public Service Commission at 1227 11th Avenue, Helena, Montana. During the hearing, one witness, Los Semorenberg, Applicant's Vice President and Manager of Marketing and Operations, testified subject to cross examination. Eighteen documentary exhibits were offered and admitted into the

Montana, subject to the regulatory jurisdiction of this Commission.

4. The applicant asserts that its balance sheets, profit and loss statements, and other supporting papers justify the conclusion that its authorized rates are no longer sufficient to produce a just and reasonable return and maintain its distribution system in adequate condition to supply the respective needs of its customers for service. It suggests a rate increase of 100% over existing rates.

OTHER FINDINGS OF FACT

5. Although requested in Interrogatories by the Consumer Counsel prior to hearing, no balance sheets for the utility's suppliers and no bill studies were submitted until the hearing. Information sought with respect to the average cost of product obtained from producers and transportation costs likewise was not made available to the Consumer Counsel until the hearing.

6. Applicant's Exhibit 2 consisted of a copy of Town of Culbertson Ordinances Numbers 112 and 113. Section I of Ordinance 113 provided that rates for franchise gas service within the Town of Culbertson would be redetermined at five year intervals. Section II of the Ordinance set out the rates to be charged by Applicant for its services. This Ordinance was adopted April 7, 1969.

7. On November 4, 1974, an amendment to Ordinance 113 was adopted which states that rates for gas service can be redetermined at such times as prove necessary to provide Applicant with a fair and reasonable profit.

8. Between the time of the adoption of Ordinance 113 in April of 1969 and the date of its amendment in November of 1974, energy prices underwent a drastic escalation. While Applicant was experiencing sharp increases in the prices it was forced to pay for its wholesale fuel supplies, its retail rates were frozen at 1969 levels by Ordinance 113.

9. Applicant's Exhibits 4, 5, 6 and 7 consisted of its Annual Reports to the Montana Public Service Commission for the years 1971 through 1974. These reports summarize Applicant's operating losses as follows:

1971	(\$7,517.15)
1972	(\$7,131.01)
1973	(\$21,454.61)
1974	(\$50,733.74)

10. The record shows that Applicant is currently experiencing wholesale propane costs of 20.155¢ per gallon in North Dakota and 27.61¢ per American gallon in Canada. At the same time, and in order to minimize the magnitude of the immediate rate increase to its customers, Applicant is seeking in this proceeding to recover its fuel expenses at a 15¢ per gallon charge to ratepayers even though it is paying more for that fuel elsewhere.

11. Since propane has approximately two and one half times the Btu content of natural gas, propane sold under Applicant's proposed rate schedule if converted to natural gas energy unit equivalents (1 mcf of natural gas = 1,000,000 Btu) would be as follows:

	<u>Scheduled Cost In Cubic Feet</u>	<u>Scheduled Cost In MCFs (1,000 Cu. Ft.)</u>	<u>Propane Cost Per 1,000,000 BTUs</u>
First 300 cu. ft.	\$3.00	\$10.00 (mcf equivalent)	\$ 4.00 (mcf equivalent)
First 1,000 cu. ft. (mcf)		\$ 8.082/mcf	\$ 3.238/1,000,000Btu
Next 8,000 cu. ft.	\$.00726 per cu. ft.	\$ 7.26/mcf	\$ 2.90/1,000,000 Btu
Over 9,000 cit. ft.	\$.00712 per cu. ft.	\$ 7.12/mcf	\$ 2.848/1,000,000 Btu
Average use at 15 mcf/month		\$109.72/15 mcfs	\$43.88 per 15,000,000 Btu
<u>Commercial</u>			
First 35,750 cu. ft.	\$.00684 per cu. ft.	\$6.84/mcf	\$2.736
Over 35,750	\$.00670 per cu. ft.	\$6.70/mcf	\$2.68

12. If complete relief is granted as petitioned for by the Applicant, all of its roughly 240 customers combined would pay a total yearly increase of over \$50,000 -- about the sum Applicant operating loss in 1974 (see finding #9).

13. An affidavit contesting certain matters in Applicant's Exhibits XII and XII was filed by E.F. Garbe, the acting Town Clerk of the Town of Culbertson.

14. The Consumer Counsel offered no testimony in opposition to the application.

15. At the conclusion of the hearing, Consumer Counsel was granted until May 9, (or ten days) to submit written depositions of persons whose statements he wished to evidence. No depositions were submitted.

16. No evidence of mismanagement or improper handling of Applicant's operating expenses was offered or adduced at the hearing.

PROPOSED FINDINGS OF FACT NOT ADOPTED

1. Consumer Counsel's Proposed Findings of Fact, Numbers 1 to 4, are adopted in substance, above.

2. Consumer Counsel's Proposed Findings 5 through 9 and part of 10 are denied for the following reasons:

a. Proposed Finding No. 5 is denied as irrelevant in view of the Commission's determination of the case using the end result test. (See Conclusion of Law No. 2).

b. Proposed Finding No. 6 is denied as misleading, since it depicts Applicant's present status as being virtually tax-free, while ignoring the magnitude of the losses which produced this status.

c. Proposed Finding No. 7 is denied as inaccurate. Applicant has outstanding \$50,000 in notes at 5%, but this amount is considerably less than 50% of its total investment.

d. Proposed Finding No. 8 is denied in view of the evidence in the record that transportation charges paid by Applicant to affiliated companies approximate the charges for similar services of common carriers in the same area.

e. Proposed Finding No. 9 is denied as unsupported by the evidence.

f. Proposed Finding No. 10 is accepted in part (See Findings No. 4 and 12) but the statement that the increase would be "over \$220 per year per customer" is denied as misleading because it is not stated as an average and even if it were, it would not necessarily reflect the increase to each customer given individual usages. Nor would it reflect changes in the rate schedule to achieve equity which may be ordered as a result of future study of schedules proposed here. (See Finding No. 11.)

3. The Applicant's Proposed Findings of Fact are denied for the reasons to be found in the Commission's Findings of Fact and Conclusions of Law, above.

RULINGS ON OBJECTIONS TO EVIDENCE AND MOTIONS

1. On April 3, 1975, the Montana Consumer Counsel entered an objection to the holding of

any hearing in this matter in Helena, alleging that, as a practical matter, such a procedure would prevent residents of Culbertson, from participating in the hearing, thus denying them due process of law.

Accordingly, the Consumer Counsel moved to change the place of hearing to Culbertson. This motion was denied by the Commission on April 12, 1975. In place of such hearing, the procedure outlined in Finding of Fact No. 15 was adopted.

2. Applicant's proposed Exhibits 1, 2, 3, 8, 9, 10, 11, 12 and 13 were admitted over objection by the Montana Consumer Counsel on behalf of interested consumers in and around Culbertson, Montana, that those interests had not had a fair opportunity to analyze the proposed exhibits in preparation for possible cross examination.

3. At the conclusion of the taking of testimony, a motion by the Montana Consumer Counsel on behalf of interested and concerned consumers in and around Culbertson, Montana, to continue the hearing to a later time and place in order to permit consumer interests to analyze the evidence of the Applicant and prepare cross examination and countervailing testimony was denied. And a motion by the Consumer Counsel to continue the hearing in order to permit the Commission staff to analyze the evidence and report subject to cross examination was denied. In place of such motions, the procedure outlined in Finding No. 15 was adopted.

4. A motion by the Consumer Counsel that the Commission enter a proposed judgment in order to retain its jurisdiction and permit concerned persons to except to proposed findings, conclusions and order provisions was denied.

5. A motion by the Consumer Counsel to take affidavits of interested persons was denied and the procedure for allowing depositions outlined in Finding No. 15 was adopted.

6. All other rulings on objections to evidence and motions made at the hearing, and contained in the transcript, are incorporated herein by reference.

7. Any objections to evidence or motions not previously ruled upon are denied.

CONCLUSIONS OF LAW

1. This Commission has a duty under the provisions of the Public Service Commission Act, RCM 1947, Section 70-101, et seq., to insure that utilities under its jurisdiction provide reasonably adequate service at just and reasonable rates.

2. The standard “just and reasonable” has been held to be the same as the constitutional standard for public utility rates. F.P.C. s., Natural Gas Pipeline Co., 315 U.S. 575 (1942). This standard has been expressed as follows:

Under the statutory standard of ‘just and reasonable’ it is the result reached and not the method employed which is controlling. It is not the theory but the impact of the rate order which counts...

The rate-making process under the Act (Natural Gas Act), i.e., the fixing of ‘just and reasonable’ rates, involves a balancing of the investor and the consumer interests. . . the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. . . the return to the equity owner should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. F.P.C. v. Hope Natural Gas Co., 320 U.S. 591, at 602-603 (1944).

3. In view of the large deficits incurred by the Applicant in the years 1971 to 1974, increased rates for Applicant’s propane gas distribution service are justified.

4. Rates at the levels approved herein are necessary to assure confidence in the financial integrity of the Applicant corporation, to permit Applicant to maintain its credit and attract new capital into its business, and to permit Applicant to continue to supply reasonably adequate service to the residents of the Town of Culbertson.

5. The rates proposed by Applicant and all rates approved herein, are just and reasonable.

ORDER

The Montana Public Service Commission orders that the following rates be approved: (as set forth in attached schedule).

DONE IN OPEN SESSION at a meeting of the Public Service Commission held June 25, 1975, by a vote of 4-1, Commissioner James R. Shea dissenting.

GORDON E. BOLLINGER, Chairman

P. J. GILFEATHER, Commissioner

THOMAS G. MONAHAN, Commissioner

GEORGE TURMAN, Commissioner

ATTEST:

GAIL E. BEHAN
Secretary

(Seal)

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing within thirty (30) days from the service of this order, a petition for review pursuant to Section 82—4216, R.C.M. 1947.

JAMES R. SHEA, COMMISSIONER, DISSENTING